

Regulatory Language

Key:

Underline text shows regulatory language proposed to be added in the Amended Initial Statement of Reasons dated April 12, 2004.

Double-underline text shows regulatory language proposed to be added in the Second Amended Initial Statement of Reasons dated May 27, 2004.

Highlighted Underline text shows regulatory language proposed to be added in the Amended Pre-adoption Statement of Reasons dated September 20, 2004.

~~Strikeout text~~ shows original regulatory language proposed to be eliminated.

~~Strikeout and underline text~~ shows regulatory language originally proposed to be added, which was no longer proposed to be added in the Amended Initial Statement of Reasons.

~~Underline Double Strikeout text~~ and ~~Double underline Double Strikeout text~~ shows regulatory language which was proposed to be added, but is no longer proposed to be added in the Amended Pre-adoption Statement of Reasons based on actions taken and direction given at the Commission's August 27, 2004 adoption hearing.

Proposed Subsection (g) of Section 149, Title 14, CCR, Commercial Taking of Market Squid, is amended to read:

(g) Closed Times and Areas for Protection of Seabirds.

~~(1) Seasonal Closures. [Market squid may not be taken for commercial purposes] or [Market squid may not be taken for commercial purposes utilizing attracting lights] around [San Miguel Island,] [and Anacapa Island,] [and Santa Barbara Island,] [and the Farallon Islands, including Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock,] [and in all waters of the Gulf of the Farallones National Marine Sanctuary. Boundaries of the Sanctuary are defined as those in effect on August 27, 2004, pursuant to Title 15, Code of Federal Regulations (CFR), Part 922, Subpart H.] from 1 February through [30 September — 30 November] as specified in this subsection. This regulation applies to vessels catching squid or attracting squid with lights for the purpose of catching. This regulation also applies to vessels pursuing squid for live bait purposes.~~

~~(A) Anacapa Island: Waters to the south of a line drawn due west from 34° 00.8' N., 119° 26.7' W (near the western point of West Island) and a line drawn due east from 34° 01.0' N., 119° 21.4' W (near Arch Rock) and extending offshore one nautical mile from the mean high water mark.~~

~~(B) Santa Barbara Island: Waters to the north of a line drawn due east from 33° 28.5' N., 119° 01.7' W extending offshore one nautical mile from the mean high water mark and continuing west then south around the northern and western sides of the island to a line drawn due south from the southern tip of the island, 33° 27.9' N., 119° 02.2' W.~~

~~(C) San Miguel Island: Waters to the west of a line drawn due north from 34° 03.1' N., 120° 23.3' W (near the marker poles in Simonton Cove) and a line drawn due south from 34° 01.8' N., 120° 26.6' W (near Adams Cove) extending offshore one nautical mile from the mean high water mark.~~

~~(D) San Miguel Island: Waters to the east of a line drawn due south from 34° 01.5' N., 120° 25.3' W (near Judith Rock) and a line drawn due north from 34° 01.8' N., 120° 18.4' W (near Cardwell Point) extending offshore one nautical mile from the mean high water mark.~~

~~(E) Farallon Islands. [All waters of the Gulf of the Farallones National Marine Sanctuary] or [Waters extending offshore one nautical mile from the mean high water mark of Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock].~~

~~(2) Harvest Replenishment Areas. Market squid may not be taken for commercial purposes in waters less than 100 fathoms in depth contiguous to San Nicholas Island.~~

~~(3) General Habitat Closures. [Squid may not be taken for commercial purposes north of Pillar Point at any time] or [Squid may not be taken for commercial purposes in any waters of the Gulf of the Farallones National Marine Sanctuary] or [Squid may not be taken for commercial purposes in waters extending offshore one nautical mile from the mean high water mark of Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock] or [Squid may not be taken for commercial purposes in District 10].~~

Subsection (b) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program, is amended to read:

(b) Classification of Permits and Permit Authorization.

(1) A Market Squid Vessel Permit authorizes the use of round haul gear, including purse seine, drum seine and lampara nets for commercial harvest. Use of brail gear, including dip and scoop nets, is also authorized. ~~[Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest by the permitted vessel, however, lighting for purposes of commercial harvest by other vessels is not authorized]~~ or [Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest]. No other gear is authorized under this permit to take or assist in the taking of market squid for commercial purposes, ~~including taking market squid for live bait purposes~~. Market Squid Vessel Permits are designated ~~[as either transferable or non-transferable] or [as transferable] or [as non-transferable]~~ as described in subsection (o) below.

(2) A Market Squid Brail Permit authorizes the use of brail gear including dip and scoop nets to take market squid for commercial purposes. Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest. No other ~~commercial~~ gear is authorized under this permit to take or assist in the taking of market squid for commercial purposes. Market Squid Brail Permits are designated ~~[as either transferable or non-transferable] or [as transferable] or [as non-transferable]~~ as described in subsection (o) below.

(3) A Market Squid Light Boat Permit authorizes only the use of lights as specified in regulation to aggregate squid for purposes of commercial harvest. No other ~~commercial~~ gear is authorized under this permit to take or assist in the taking of market squid for commercial purposes. Market Squid Light Boat Permits are transferable as described in subsection (o) below.

(4) Only one market squid permit, regardless of the class of permit as described in subsections (b)(1), (2), and (3) above, may be issued per owner per vessel.

Subsection (c) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program, is amended to read:

(c) Initial Issuance Criteria. Any person who is the ~~lawful~~ registered owner of the vessel

must provide current proof of vessel ownership at the time of application. Permits as described in subsection (b) shall be issued only to the following persons, partnerships or corporations for use on qualifying vessels meeting the specified initial issuance criteria for each class of permit: for use on vessels either that meet the specified initial issuance criteria for the class of permit or for use by individuals that meet the specified issuance criteria for the class of permit for use on a designated vessel: based on qualifying criteria described in this subsection. Transferable permits shall be issued to owners where the vessel meets the specified initial issuance criteria for the class of permit. Non-transferable permits shall be issued only to individuals that meet the specified initial issuance criteria for the class of permit. During initial permit issuance, a permit must be placed only on a vessel that was licensed with a valid Market Squid Vessel Permit or a Market Squid Light Boat Owner's Permit in the 2004-05 permit year, and which must also be the vessel upon which the qualifying catches were made.

Subsection (c)(2) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program, is amended to read:

(2) Market Squid Vessel Permit – ~~[Non-Transferable] or [Transferable].~~

(A) A Non-Transferable Market Squid Vessel Permit may be issued to an individual that is ~~The individual must be the owner of a commercial fishing vessel with a Market Squid Vessel Permit for the 2004-05 permit year that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and~~

(B) the Market Squid Vessel Permit has not been suspended or revoked, and

~~(B)-(C) pursuant to consistent with Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and~~

~~(C) the individual does not own a vessel that has been issued a permit pursuant to initial issuance criteria in subsection (c)(1), (c)(3), (c)(4) or (c)(5) nor is a partner nor a shareholder in a corporation which owns a vessel which has been issued a permit pursuant to initial issuance criteria in subsection (c)(1), (c)(3), (c)(4) or (c)(5). This provision does not apply to cases where the individual is the holder of two or more Market Squid Vessel or Squid Light Boat Owner's Permits issued for use on vessels for the 2004-05 permit year which have not been suspended or revoked, and one or more of those vessels did not qualify for initial permit issuance under subsection (c)(1), (c)(3), (c)(4) or (c)(5). And~~

(D) the individual has made at least ~~[33-50]~~ [20-75] landings of market squid from the vessel licensed with a Market Squid Vessel Permit for the 2004-05 permit year as documented by fish landing receipts submitted to the department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, during any one license permit year (April 1 through March 31 of the following year). Only landing receipts dated ~~[between January 1, 1990 and March 31, 2003] or [between January 1, 1998 and March 31, 2003] or [before August 27, 2004]~~ will be counted toward qualification. ~~[from January 1, 1990 – January 1, 2000] through [November 12, 1999 – March 31, 2003]].~~ Only receipts that demonstrate catch aboard a vessel with a Market Squid Vessel Permit for the 2004-05 permit year that does not already qualify for issuance of a transferable Market Squid Vessel Permit under subsection (c)(1) of this section or a transferable Market Squid Brail Permit under subsection (c)(3) of this section or a transferable Market Squid Light Boat Permit under

subsection (c)(5) of this section are eligible valid for consideration. In cases where multiple individuals with catch history aboard a single vessel that does not qualify for a permit under subsection (c)(1), (c)(3), or (c)(5) are seeking issuance of a permit under this provision or provisions of subsection (c)(4):

1. Only one individual may qualify per vessel, even if multiple individuals meet the specified requirements defined in subsection (c)(2) or (c)(4).

2. The individual with the greatest number of landings aboard the vessel [during the specified time period] that were submitted to the department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046 is the individual that is eligible for qualification.

Alternative language for (D) above:

(D) the individual has made at least [33—50] [20-150] landings of market squid from the vessel licensed with a Market Squid Vessel Permit for the 2004-05 permit year as documented by fish landing receipts submitted to the department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, prior to August 27, 2004. during any one license year (from [January 1, 1990—January 1, 2000] through [November 12, 1999—March 31, 2003]). Only receipts that demonstrate catch aboard a vessel with a Market Squid Vessel Permit for the 2004-05 permit year that does not already qualify for issuance of a transferable Market Squid Vessel Permit under subsection (c)(1) of this section or a transferable Market Squid Brail Permit under subsection (c)(3) of this section or a transferable Market Squid Light Boat Permit under subsection (c)(5) of this section are eligible valid for consideration. In cases where multiple individuals with catch history aboard a single vessel that does not qualify for a permit under subsection (c)(1), (c)(3), or (c)(5) are seeking issuance of a permit under this provision or provisions of subsection (c)(4):

1. Only one individual may qualify per vessel, even if multiple individuals meet the specified requirements defined in subsection (c)(2) or (c)(4).

2. The individual with the greatest number of landings aboard the vessel [during the specified time period] that were submitted to the department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046 is the individual that is eligible for qualification.

(E) The department shall separately identify Non-Transferable Market Squid Vessel Permits permits issued under this section and those permits shall become null and void upon the death of the permit holder.

(F) The vessel may engage in commercial squid fishing activity as authorized by the permit only when the permitholder is aboard the vessel. Designated operators are not permitted.

Subsection (c)(4) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program, is amended to read:

(4) Market Squid Brail Permit – [Non- Transferable] or [Transferable].

(A) A Non-Transferable Market Squid Brail Permit may be issued to an individual that is The individual must be the owner of a commercial fishing vessel with a Market Squid Vessel Permit for the 2004-05 permit year that has been registered with the department

pursuant to Fish and Game Code Section 7881 at the time of application, and
 (B) the Market Squid Vessel Permit has not been suspended or revoked, and
 (B)-(C) pursuant to consistent with Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and
 (C) ~~the individual does not own a vessel that has been issued a permit pursuant to initial issuance criteria in subsection (c)(1), (c)(2), (c)(3) or (c)(5) nor is a partner nor a shareholder in a corporation which owns a vessel which has been issued a permit pursuant to initial issuance criteria in subsection (c)(1), (c)(2), (c)(3) or (c)(5). This provision does not apply to cases where the individual is the holder of two or more Market Squid Vessel or Squid Light Boat Owner's Permits issued for use on vessels for the 2004-05 permit year which have not been suspended or revoked, and one or more of those vessels did not qualify for initial permit issuance under subsection (c)(1), (c)(2), (c)(3) or (c)(5). And~~
 (D) the individual has made at least 10 landings of market squid with brail gear from the vessel with a Market Squid Vessel Permit for the 2004-05 permit year as documented by department fish landing receipts submitted to the department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, during any one permit license year (April 1 through March 31 of the following year) from January 1, 2000 through March 31, 2003~~from [January 1, 1990 – January 1, 2000] through [November 12, 1999 – March 31, 2003]]. Only receipts that demonstrate catch aboard from a vessel with a Market Squid Vessel Permit for the 2004-05 permit year that does not already qualify for issuance of a transferable Market Squid Vessel Permit under subsection (c)(1) of this section or a transferable Market Squid Brail Permit under subsection (c)(3) of this section or a transferable Market Squid Light Boat Permit under subsection (c)(5) of this section are eligible-valid for consideration. In cases where multiple individuals with catch history aboard a single vessel that does not qualify for a permit under subsection (c)(1), (c)(3), or (c)(5) are seeking issuance of a permit under this provision or provisions of subsection (c)(2):~~
 1. ~~Only one individual may qualify per vessel, even if multiple individuals meet the specified requirements defined in subsection (c)(2) or (c)(4).~~
 2. ~~The individual with the greatest number of landings aboard the vessel [during the specified time period] that were submitted to the department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046 is the individual that is eligible for qualification.~~
 (E) The department shall separately identify Non-Transferable Market Squid Brail Permits permits issued under this section and those permits shall become null and void upon the death of the permit holder.
 (F) ~~The vessel may engage in commercial squid fishing activity as authorized by the permit only when the permit holder is aboard the vessel. Designated operators are not permitted.~~

Subsection (d) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program, is amended to read:

(d) Application Deadlines for Initial Permit Issuance. All applications [FG 1315 (8/04), incorporated by reference herein] and permit fees for initial issuance of Market Squid

Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be received by the department, or, if mailed, postmarked on or before June 30, 2005. Applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department, or, if mailed, postmarked from July 1 through July 31, 2005 will be assessed a \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department or postmarked after July 31, 2005 will be denied by the department and returned to the applicant.

Subsection (g) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program, is amended to read:

(g) Application Deadlines for Annual Permit Renewal. All applications [FG 1315 (8/04), incorporated by reference herein] and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department, or, if mailed, postmarked from May 1 through May 31 of each permit year will be assessed a \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department or postmarked after May 31 of each permit year will be denied by the department and returned to the applicant.

Subsection (k) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program, is amended to read:

(k) Dissolution of Partnership or Corporation. If a transferable Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit is issued for a vessel that is owned by a bona fide partnership or corporation which becomes dissolved, the partnership or corporation shall notify the department of the name of the partner or shareholder who is the successor permitholder and the department shall reissue the permit to that partner or shareholder. Change of vessel ownership provisions defined in subsection (l) and transfer fees in subsection (i)(2) apply.

Subsection (o) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program, is amended to read:

(o) Transfer of Permits to Replacement Vessels.

(1) Conditions for permit transferability as defined in this subsection shall provide the mechanism for achieving the capacity goals defined in subsection (m) of this Section over time.

(2) Definitions of Comparable Capacity.

(A) For purposes of permit transferability described in this subsection, two vessels are of comparable capacity if the gross tonnage, as defined in subsection (n) of this Section, of the replacement vessel is not in excess of ten percent greater than the gross tonnage

of the originally permitted vessel [the replacement vessel's gross tonnage must be less than (the gross tonnage of the original vessel) plus (0.1 multiplied by the gross tonnage of the original vessel)].

(B) A replacement vessel shall be considered of comparable capacity in cases of permit transfers where the gross tonnage of the original vessel exceeds the gross tonnage of the replacement vessel by any amount. Gross tonnage endorsement provisions for the replacement vessel defined in subsection (n) shall apply.

(3) After August 31, 2005 the following conditions for transferability of permits to replacement vessels will be in effect for permits in each class as described:

(A) The owner of a vessel with a valid ~~transferable~~ Transferable Market Squid Vessel Permit may transfer the permit to another person who is the owner of ~~a replacement commercial fishing vessel~~ or a replacement commercial fishing vessel of comparable capacity as defined in this subsection].

(B) If transfer is sought of a Transferable Market Squid Vessel Permit for a replacement commercial fishing vessel which is not of comparable capacity as defined in this subsection, one additional valid ~~transferable~~ Transferable Market Squid Vessel Permit shall be transferred and surrendered to the department at the time of the transfer. Market Squid Vessel Permit transfers are not authorized in cases where the gross tonnage of the replacement vessel is not of comparable capacity to the sum of the gross tonnages of the two original vessels as defined above.

(C) A Transferable Market Squid Brail Permit issued to an individual, partnership or corporation may be transferred to another entity who is the owner of ~~a replacement commercial fishing vessel~~ or a replacement commercial fishing vessel of comparable capacity as defined in this subsection].

(D) A Transferable Market Squid Light Boat Permit issued to an individual, partnership or corporation may be transferred to another entity ~~[who is the owner of a replacement commercial fishing vessel] or (who is the owner of a replacement commercial fishing vessel if an additional Market Squid Light Boat Permit is also purchased and surrendered to the department at the time of the transfer. Should the number of Market Squid Light Boat Permits issued by the department be at or lower than the capacity goal specified in subsection (m), an additional permit need not be surrendered to allow for transfer to another entity)].~~

(E) In the event of death of the holder of a Transferable Market Squid Vessel Permit, Transferable Market Squid Brail Permit, or a Transferable Market Squid Light Boat Permit, the estate must apply for transfer of the permit to another entity within one year of the permitholder's death.

(F) A Non-Transferable Market Squid Vessel Permit or a Non-Transferable Market Squid Brail Permit issued to an individual may not be transferred to another entity, but in the event the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown, the permit may be placed on a replacement vessel of comparable capacity as defined in subsection (m). A notarized, written request for transfer must be submitted, along with proof that the permitted vessel is lost, stolen, or destroyed in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire department investigating the loss. In the case of mechanical breakdown, the request shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard. The department shall not issue a permit for a replacement vessel pursuant to this subsection if the permitted vessel was reported lost, stolen, destroyed, or damaged for fraudulent purposes.

(4) The applicant for transfer must be the owner of a replacement commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application.

(5) ~~An application~~ A written request for transfer of a market squid permit of any class shall be submitted to the department by the owner of the replacement vessel in the form of a notarized letter, accompanied by the nonrefundable transfer fee and shall include a copy of the permit or permits which are being considered for transfer, current proof of vessel ownership, and gross tonnage information as described in subsection (n), if applicable.

(6) Any market squid permit holder intending to transfer a permit shall submit a notarized letter to the department setting forth the conditions of the sale, and shall specify that the terms of the transfer as documented by the replacement vessel owner are valid and true.

~~(5) An application for transfer of a market squid permit of any class shall be submitted to the department by the owner of the replacement vessel in the form of a notarized letter, accompanied by the nonrefundable transfer fee and shall include a copy of the permit or permits which are being considered for transfer, current proof of vessel ownership, and gross tonnage information as described in subsection (n), if applicable.~~

~~(6) Any market squid permit holder intending to transfer a permit shall submit a notarized letter to the department setting forth the conditions of the sale, and shall specify that the terms of the transfer as documented by the replacement vessel owner are valid and true.~~

(7) Upon determining that the applicant is qualified to transfer the permit to a replacement vessel, payment of all fees, and surrender to the department of the original permit or permits, the department shall issue the applicable permit to the owner of the replacement vessel that is valid for the remainder of the fishing season. Gross tonnage endorsement provisions defined in subsection (n) above shall apply.

(8) At the time the permit transfer is complete, vessels previously authorized to fish under conditions of a surrendered permit shall not take or attract squid for commercial purposes unless otherwise authorized in regulation or statute.